

Multifamily Seller/Servicer Guide

Chapter 42 Transfers of Servicing

42.1 General policy (07/31/12)

Freddie Mac's requirements and definitions for transfers of Servicing are set forth in this chapter.

42.2 Transfer of Servicing definitions

a. Transfer of Servicing (02/28/11)

Transfer of Servicing means the assignment, sale, conveyance or other transfer of all Servicing duties and responsibilities set forth in the Purchase and Servicing Documents with respect to one or more Mortgages owned by Freddie Mac.

b. Transferee (02/28/11)

The transferee is the Servicer that acquires, or proposes to acquire, the Servicing of the Mortgage(s).

c. Transferor (02/28/11)

The transferor is the Servicer that transfers, or proposes to transfer, Servicing of the Mortgage(s).

d. Effective date of transfer (12/12/14)

The effective date of any transfer is the transfer date set forth on the Transfer of Servicing Agreement – Form 981M, unless the transferor and transferee are otherwise advised by Freddie Mac.

For all transfers, the effective date of the transfer must be the first Business Day following the cutoff date for a Freddie Mac accounting cycle.

42.3 Submitting requests for transfers of Servicing (07/31/12)

The transferor must obtain Freddie Mac's written approval for each transfer of Servicing before the transfer takes place, regardless of whether the transfer is initiated or requested by a Servicer or any other party, such as a conservator, receiver or liquidator of the Servicer.

a. Transfers of Servicing (12/12/14)

At least 30 days before the requested transfer date, the Servicer must submit the following to Freddie Mac Multifamily Customer Compliance Management:

- Form 981M, Transfer of Servicing Agreement (executed by the transferor and the transferee)
- A list of Mortgages for which the Servicer is requesting that the Servicing be transferred

Guide Bulletin Update 04/30/19 Chapter 42 – Page 1

- Fully executed copies of the Purchase and Servicing Documents, including a statement of the amount to be paid to the transferor and a copy of any recourse agreement between the transferor and the transferee (submitted by the transferor)
- If the Servicer or any of its directors or officers owns an interest in the Property or the Borrower for any Mortgage for which the Servicer is requesting that the Servicing be transferred, a statement that discloses the nature and extent of that interest

If Freddie Mac approves the transfer, Freddie Mac will indicate that approval by executing and returning a copy of the Transfer of Servicing Agreement, Form 981M to the transferor and the transferee.

b. Fee (04/30/19)

With the Transfer of Servicing Agreement – Form 981M, the transferor must remit a nonrefundable transfer processing fee of \$1000. The transferor must remit the transfer processing fee by wire transfer. The Servicer must obtain wire transfer instructions from Freddie Mac Multifamily Customer Compliance Management. The Servicer must send the wire transfer to the attention of *Multifamily Cash Management*. The wire transfer must reference the Seller/Servicer name, Seller/Servicer number and the Freddie Mac contact person.

c. Denied transfer of Servicing requests (12/05/03)

If Freddie Mac does not approve a transfer of Servicing request, it will provide written notice to the transferor and transferee, explaining the reasons for its decision and detailing the actions, if any, that could be taken to obtain Freddie Mac approval.

d. Freddie Mac's rights (06/28/13)

Freddie Mac has the right to transfer Servicing from any Servicer for cause and without cause as set forth in Chapter 4, including the right to transfer Servicing from a servicer that has purported to assume a Servicer's Servicing obligations without Freddie Mac's prior written approval. Any such unauthorized transfer and assumption of Servicing constitute grounds for suspension of both the transferor and purported transferee as Seller/Servicers and/or termination of Servicing under the provisions of Chapter 4.

42.4 Review of transferor and transferee (06/28/13)

The transferor and the transferee of Servicing must be approved Servicers and must be in compliance with all of the requirements of the Purchase and Servicing Documents. In addition, when reviewing a transfer of Servicing request, Freddie Mac will review both the transferor and the transferee for compliance with the criteria listed in the chart below. Freddie Mac may refuse to approve a transfer of Servicing if any of the following criteria are not met:

Criteria:	Transferor must...	Transferee must...
Repurchases	Have none outstanding	Have none outstanding
Delinquency and REO ratios	Not applicable	Have a

Criteria:	Transferor must...	Transferee must...
		<ul style="list-style-type: none"> • 30-, 60-, or 90-day Delinquency rate or Real Estate Owned (REO) rate by the Seller/Servicer that does not exceed 150 percent of the average 30-, 60-, or 90-day Delinquency rate or REO rate for all multifamily Mortgages owned by Freddie Mac, or • Delinquency rate on post-1994 Mortgages [see Section 4.6(a)] that does not exceed 150 percent of the average Delinquency rate for all post-1994 Mortgages purchased by Freddie Mac since that date in the same geographic area in which the Properties that secure Mortgages sold by the Seller/Servicer or serviced by the Servicer are located
Reporting and/or remitting	Not applicable	Have reported accurately and timely

Freddie Mac will not approve a transfer of Servicing if Freddie Mac, in the exercise of its judgment, determines that such a transfer is not in the best interests of Freddie Mac or determines that the transferee will not be able to adequately service the Mortgages.

42.5 Additional requirements for transfers of Servicing (10/07/02)

As a condition of Freddie Mac's approval of a transfer of Servicing request, the transferor and transferee must each ensure that it has met the additional requirements in this section relating to the Mortgages being transferred.

a. Negotiated Transactions purchase (12/12/14)

If the Mortgages for which Servicing is being transferred are subject to a Multifamily Negotiated Transactions Purchase Contract, the transferor must attach a copy of that contract to the Transfer of Servicing Agreement – Form 981M.

b. Participations (05/01/14)

In an approved transfer of Servicing, the transferor must either retain, or sell to the transferee, any participation interest the Seller/Servicer retains in Mortgages sold in part to Freddie Mac, unless Freddie Mac elects to purchase the participation interest.

c. Portfolio transfers (05/01/14)

Complete Servicing portfolio transfers must include any Delinquent Mortgages and any REO.

d. Information to be provided by transferor (05/01/14)

During the period prior to the effective date of a proposed transfer of Servicing, the transferor must provide to Freddie Mac Multifamily Customer Compliance Management and/or the proposed transferee, upon request, the following information:

1. The trial balance or supplemental schedules that confirm
 - The unpaid principal balance of each Mortgage, and
 - All Reserve, suspense and advance account balances
2. All Custodial Account reconciliations related to the Mortgages including
 - Principal and interest
 - Taxes and insurance
 - Replacement Reserve
 - Repair Reserve

This information must be as of the last reconciliation of these Custodial Accounts.

e. Delegated TAH Mortgages (08/30/13)

The transferor must attach a copy of the Seller/Service's Delegated TAH Master Agreement.

42.6 Reporting to Freddie Mac for transfers of Servicing**a. Written certification (03/31/11)**

The transferee, as a condition of Freddie Mac's approval of the transfer, must provide to Freddie Mac Multifamily Customer Compliance Management, within 30 days after the effective date of transfer, written certification of the completion of the transfer. The certification must state that the transferee

- Has received and possesses all funds and records (such as documents, books of account and files) required by the Purchase and Servicing Documents to be transferred in connection with a transfer of Servicing
- Has had an opportunity to examine such records
- Has determined that such records are correct
- Assumes full responsibility and liability for the correctness of such records

b. Transferee accounting reporting and remitting (12/05/03)

Beginning with reports due for the reporting cycle immediately following the effective date of transfer, the transferee must submit all Servicing reports in the name and Seller/Servicer number of the transferee.

The transferee Servicer must submit all accounting reports in accordance with Chapter 54, and must remit all funds due to Freddie Mac in accordance with Chapter 53.

c. Transferor accounting reporting and remitting (12/05/03)

The transferor must report and remit all of the following:

- Payoffs for which the payoff date is before the effective date of transfer
- Reports and funds due for the accounting cycle cutoff date immediately preceding the effective date of transfer

The transferee must report and remit all of the following:

- Payoffs for which the payoff date is on or after the effective date of transfer
- Reports and funds due for the accounting cycle cutoff dates following the effective date of transfer

42.7 Transfer of records for transfers of Servicing**a. Transfer of Mortgage files (10/31/12)**

On the effective date of the transfer, the transferor must deliver to the transferee a complete loan history of each Mortgage for which Servicing is being transferred. Unless otherwise agreed to by the transferee, the loan histories must be in an automated format, and must include a list of codes used in the loan histories and the definitions of those codes.

No later than 30 days after the effective date of transfer, the transferor must deliver to the transferee the following records for each Mortgage for which Servicing is transferred:

1. Mortgage File

The Mortgage File that the Servicer is required to maintain in accordance with Chapter 34

2. Payment history

The complete history of Mortgage payments and, if applicable, Reserve disbursements (including the most recent Reserve analysis), with supporting documentation, from the Origination Date of the Mortgage

3. Correspondence and reports

Copies of all correspondence with, and reports to, the Borrowers and, as applicable, Freddie Mac and any government authority

4. Notice of transfer

A copy of the notice to the Borrowers regarding the transfer of Servicing

b. Transfer of portfolio records (10/31/12)

No later than the effective date of transfer, the transferor must deliver to the transferee the following records for the Mortgages for which Servicing is transferred:

1. Notices to third parties

The notices required in Section 42.13

2. Service contracts

Copies of tax and insurance determination service contracts, if applicable

3. Unpaid charges

A list of escrowed charges due and unpaid as of the effective date of transfer

4. Trial balances

Trial balances, as of the close of the last Business Day immediately preceding the effective date of transfer, showing

- Transfers of Ownership, payoffs and other Servicing exceptions in process
- Reserves, Reserve advances and prepayments
- Delinquencies, foreclosures and bankruptcies

5. Insurance policies

A list of Mortgages showing expiration dates of the insurance policies on the Property, whether or not premiums for these policies were escrowed by the transferor

6. Other documents

Ledger records and definitions of codes used in ledger records, trial balances or any other documents required by Freddie Mac to be transferred to the transferee

c. Additional requirements for subsequent transfers (10/31/12)

For a subsequent transfer of Servicing, the transferor must deliver to the transferee, no later than 30 days after the effective date of transfer, the following documents in addition to those specified in Sections 42.7(a) and 42.7(b):

1. Custodial Accounts

A copy of the depository's reconciliation, as of the close of the bank's last Business Day immediately preceding the effective date of transfer, for each Custodial Account maintained in accordance with Chapter 52

2. Freddie Mac reports

Copies of all Servicing and accounting reports filed with Freddie Mac for the three months immediately preceding the effective date of transfer

42.8 Transfer costs (10/07/02)

The transferor must pay documentary stamp taxes, recording fees, transfer taxes and all other expenses payable in connection with any transfer of Servicing of Mortgages purchased by Freddie Mac, unless otherwise negotiated with the transferee.

42.9 Transfer of funds for transfers of Servicing

a. General (10/31/12)

The transferor must transfer all Custodial Account balances (including Reserves, prepayments and buydown funds) to the transferee's depository. The transferee must establish and hold these Custodial Accounts in accordance with Chapter 52. The transferor must make a final reconciliation of all monies relating to the transfer on the effective date of transfer.

b. Reserve Custodial Accounts (08/30/13)

The transferor must forward the entire balance of all Custodial Accounts related to Reserves and suspense accounts, net of outstanding advances on current Mortgages only, to the transferee's depository on the effective date of transfer. On the transfer date, the transferee must advance outstanding Reserve advances on current Mortgages, netted from the total by the transferor, to the Custodial Account it has established.

Outstanding Reserve advances on Delinquent Mortgages are reimbursable to the transferor in accordance with the provisions of Section 45.3, or the Seller/Servicer's Delegated TAH Master Agreement, if applicable.

c. Interest (10/07/02)

The transferee must reimburse the transferor for delinquent interest (net of prepaid interest) advanced to Freddie Mac by the transferor as of the effective date of transfer, no later than the date the funds are due to Freddie Mac.

42.10 Notice to Borrowers of transfers of Servicing

a. Transferor's notice to the Borrower (10/07/02)

The transferor must provide timely notice to the Borrowers to ensure a smooth transition, avoid disruption in Mortgage payments and comply with applicable laws and regulations. The transferor must provide written notice to each Borrower at least 15 days before the first payment is due to be received by the transferee.

b. Transferee's notice to the Borrower (10/07/02)

The transferee must provide to each Borrower written confirmation of the information in the transferor's notice to the Borrowers within 15 days before the date the first payment is due to be received by the transferee.

c. Notice requirements (10/07/02)

The notice must advise the Borrower of the following:

1. The effective date of transfer
2. The name and address of the transferee
3. The names and telephone numbers of the contact persons or departments of the transferor and of the transferee where the Borrowers' inquiries relating to the transfer should be directed (If toll-free numbers are not available, the letter must indicate that collect calls will be accepted.)
4. The date when the transferor will no longer collect the Borrowers' payments and when the transferee will begin to collect them

The notice may not amend the terms of a Mortgage other than those relating to where to send payments.

42.11 Borrower issues and inquiries about transfers of Servicing (05/01/14)

The transferor and transferee must ensure that their staffs and facilities are adequately prepared to process Servicing and accounting transactions and to respond to inquiries from the Borrower during the transfer transition period. The transferee must assume responsibility for responding to Borrower inquiries received after the effective date of transfer. If any Servicing or accounting problem cannot be resolved without the involvement of the transferor, the transferee, and not the Borrower, must initiate the contact with the transferor.

During the transfer transition period, the transferor and transferee must make reasonable efforts to resolve disputes to the Borrowers' satisfaction when such disputes arise from legitimate misunderstanding by the Borrower of instructions in the notice of transfer of Servicing. Late charges must be waived and, if applicable, appropriate adjustments to payment and credit records made for misapplied or unapplied payments due to the transferee but received by the transferor.

42.12 Funds and correspondence received after transfers of Servicing (10/07/02)

Within one day of receipt, the transferor must deliver to the transferee any funds for, or correspondence regarding, any of the transferred Mortgages received on or after the effective date of transfer.

42.13 Notices to third parties of transfers of Servicing (01/01/13)

The transferor must obtain the following approvals and provide the following notices, as applicable:

- Advise all applicable property insurers of the transfer and of the name and address of the transferee to modify the mortgagee clause required by Section 31.2(e).
- Notify all other appropriate parties, including tax and flood hazard determination services, tax authorities, fee owners for leasehold Mortgages, other lienholders and public utilities levying mandatory assessments for which Reserves are collected

42.14 Liabilities of the transferor and transferee

a. Liability for warranties (08/30/13)

1. Transfers of Servicing effective prior to November 15, 1994

For each transfer of Servicing with an effective date prior to November 15, 1994, unless otherwise specified by Freddie Mac, the transferee is liable to Freddie Mac for the following, regardless of whether the transferor had such liability:

- With respect to the sale of each Mortgage to Freddie Mac, the representations, covenants and warranties that were in effect on the date of the sale; and
- With respect to the Servicing of the Mortgages and REO for which Servicing is transferred, for the representations, covenants and warranties in effect from time to time during the period that Freddie Mac has owned each Mortgage.

2. Transfers of Servicing effective on or after November 15, 1994

For transfers of Servicing with an effective date on or after November 15, 1994, the following provisions apply:

a. Liability of transferor

Unless otherwise agreed in writing by Freddie Mac, the transferor will retain liability as follows:

- With respect to the sale of each Mortgage to Freddie Mac, for all representations, covenants and warranties in effect on the date of the sale; and
- With respect to the Servicing of the Mortgages and REO for which Servicing is transferred, for the representations, covenants and warranties in effect from time to time during the period that the transferor serviced each Mortgage.

b. Liability of transferee

On the effective date of the transfer of Servicing, the transferee assumes liability for all representations, covenants and warranties specified in Chapter 5 with respect to

- The Servicing of the Mortgages and REO, and
- The sale of the Mortgages to Freddie Mac. For Delegated TAH Mortgages, all representations, covenants and warranties applicable to origination and underwriting specified in Chapter 5 of the TAH Guide continue to apply.

For any warranties applicable to the sale of Mortgages to Freddie Mac that relate to the knowledge of the Seller, the transferee's liability will be determined based upon the knowledge of the original Seller, not the knowledge of the transferee.

b. **Hold harmless (10/31/12)**

The transferor and the transferee, jointly and severally, indemnify and agree to hold Freddie Mac, its successors and assigns, harmless from and against any and all losses, claims, demands, actions, suits, damages, costs and expenses (including reasonable attorney fees) of every nature and character that may arise or be made against or be incurred by Freddie Mac as a result of the transferor's or the transferee's failure to comply with applicable law or failure to comply with Freddie Mac's Servicing requirements as set forth in the Purchase and Servicing Documents, including failure to provide the notices required by Section 42.13, failure to make any payment to the appropriate parties for which Reserves are collected, and failure to credit properly any payments received from Borrowers.

c. **Servicing (02/07/08)**

The transferee must service the Mortgages in accordance with the terms of the unitary, indivisible master Servicing contract comprising the Guide, applicable bulletins and any other applicable Purchase and Servicing Documents.